

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2001-451

February 14, 2002

S.D. WARREN COMPANY
Petition to Establish Power Purchase
Agreement Rate Pursuant to
P.L. 2000, Chapter 730

ORDER APPROVING
SELECTION OF BIDDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

Through this Order, we approve the selection of a bid pursuant to the bid process we previously authorized in this proceeding. We also approve various “transaction documents” necessary to implement the selected bid.

II. BACKGROUND

On July 5, 2001, S.D. Warren filed a petition requesting that the Commission approve a mechanism to establish the rates for its Somerset Mill purchased power agreement with Central Maine Power Company (CMP). The parties to the proceeding subsequently agreed to conduct a joint bid process to obtain power supply for the Mill and to sell CMP’s entitlement to the Mill’s generation. The bid term would be for a one-year term beginning March 1, 2002 and the process would be conducted jointly by S.D. Warren, CMP and our Staff.

On November 1, 2001, S.D. Warren filed a document detailing the proposed joint bid process along with a draft request for proposal. On November 6, 2001, we approved the proposed process as reasonably designed to obtain the most value for the combined retail purchase and entitlement sale transaction.

On February 14, 2002, S.D. Warren and CMP filed a request for approval of the bid process results. The filing included a summary and analysis of the bids, and several “transaction documents” that serve to implement the selected bid.¹ The transaction documents are as follows:

S.D. Warren Entitlement Agreement
Temporary Third Amendment to the PPA

¹ The identity of the winning bidder, the details of bid, and the transaction documents are confidential pursuant to Protective Order No. 1, as amended.

Second Amendment to Electric Service Agreement
Temporary Payment Agreement
Electricity Supply Contract
Netting Agreement
Competitive Electricity Provider Agreement

S.D. Warren and CMP ask that we approve the selected bid and each of the transaction documents.

Our Staff has participated in the bid process and has conducted an analysis of the bids. Staff recommends approval of the selected bid and the transaction documents. The Public Advocate and the Industrial Energy Consumer Group, the other parties to this proceeding, have indicated no objection to the Commission's approval of the winning bid.

We have reviewed the analysis of the bids and the transaction documents. We conclude that the selected bid provides maximum value for the Somerset entitlement and minimizes the cost of supply for the Somerset Mill. We also conclude that the transaction document reasonably implement the selected bid. We, therefore, approve the selected bid and the transaction documents. In doing so, we find that the sale of the Somerset entitlement pursuant to the Entitlement Agreement satisfies CMP's obligation to auction its non-divested generation assets under Chapter 307 of our rules. Additionally, we explicitly find that CMP's execution of the transaction documents is reasonable and prudent, and that any direct or indirect costs incurred by CMP pursuant to the transaction documents (that are not the result of unreasonable or imprudent actions of CMP subsequent to the execution of the documents) shall be fully recovered, with appropriate carrying costs, from ratepayers.

Dated at Augusta, Maine, this 14th day of February, 2002

BY ORDER OF THE COMMISSION

Raymond Robichaud
Assistant Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent

Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.